

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION

T. Terell Bryan, #254638, a/k/a Terence  
Terell Bryan,

Plaintiff,

vs.

F.B.I.; S.L.E.D.; U.S. Attorney (S.C.);  
U.S. Attorney (Guam); Attorney General  
(S.C.); S.C.D.C.; Jon Ozmint; Donna  
Hodges; Jimmy Sligh; Linda Dunlap;  
Ann Moak; Russell Campbell; Gerri  
Miro; Robert Woods; Amy R. Enlow;  
Cathy C. Jones; Victoria O. Balogun;  
Nurse Tipton; Warden McCall; Doctor  
Benjamin F. Lewis, Jr.; Miriam  
Cocciolone; James Simmons, III;  
Greenville Co. Clerk; Greenville Co.  
Solicitor; Greenville Co. Magistrate,

Defendants.

C/A No.: 1:10-2554-TLW-SVH

**ORDER**

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Shiva V. Hodges, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In her Report, Magistrate Judge Hodges recommends that Defendants FBI, SLED, U.S. Attorney for S.C., U.S. Attorney for Guam, Attorney General of S.C., S.C.D.C., the Greenville County Clerk of Court, the Greenville County Solicitor, and Greenville County Magistrate Judge be dismissed from the above-captioned case without prejudice and without issuance and service of process. The plaintiff has filed objections to the Report.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report, in part as outlined herein. To the extent that the Report recommends dismissal of Defendants FBI, SLED, U.S. Attorney for S.C., U.S. Attorney for Guam, Attorney General of S.C., the Greenville County Clerk of Court, the Greenville County Solicitor, and Greenville County Magistrate Judge for failing to respond to Plaintiff's letters concerning another inmate, this Court agrees that dismissal is appropriate. However, in plaintiff's complaint, as well as in his objections to the Report (which the Magistrate Judge obviously did not have when preparing the Report), he also suggests that he contacted these agencies/individuals not only about inmate Simmons, but also about himself and his own health and safety concerns. The allegations that plaintiff contacted these agencies/individuals on his own behalf and any potential obligations they may have under the law are not addressed in the Report. Accordingly, the Court finds it appropriate to remand the case to the Magistrate Judge for further consideration as to whether service of process should issue as to these defendants. The Court does find the dismissal of the South Carolina Department of Corrections appropriate for the reasons set forth in the Report.

**THEREFORE, IT IS HEREBY ORDERED** that the Magistrate Judge's Report is **ACCEPTED, IN PART** as outlined herein (Doc. # 24); Plaintiff's objections are **SUSTAINED, IN PART** as outlined herein (Doc. # 30); and this case is **REMANDED** to the Magistrate Judge for further consideration as to whether service of process should issue as to Defendants FBI, SLED, U.S. Attorney for S.C., U.S. Attorney for Guam, Attorney General of S.C., the Greenville County Clerk of Court, the Greenville County Solicitor, and Greenville County Magistrate Judge. Defendant South Carolina Department of Corrections is **DISMISSED** from this action for the reasons set forth in the Report.

**IT IS SO ORDERED.**

s/ Terry L. Wooten

**TERRY L. WOOTEN**

**UNITED STATES DISTRICT JUDGE**

April 7, 2011

Florence, South Carolina